

ASSEMBLY BILL

No. 1425

Introduced by Assembly Member Thomson

February 23, 2001

An act to amend Section 1568.03 of the Health and Safety Code, and to add Section 5677 to the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1425, as introduced, Thomson. Mental health services.

(1) Existing law, the Bronzan-McCorquodale Act, establishes provisions for the purpose of organizing and financing community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law requires the board of supervisors of each county to adopt, and submit to the Director of Mental Health, an annual mental health services performance contract containing prescribed information.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Existing law exempts from the licensing requirement facilities meeting certain conditions such as that all residents of the facility independently obtain care and supervision and medical services without the assistance of the facility or of any person or entity with an organizational or financial connection with the facility, and that no resident of the facility has an unmet need for care and supervision or protective supervision.

This bill, notwithstanding the above provision, would permit a licensee to provide mental health services to residents of the licensed

facility if the county has approved a contract with the licensee to provide mental health services pursuant to the county's performance contract with the state.

(2) Existing law provides that in determining the applicability of the above exemption, the department shall determine the residents' need for care and supervision, if any, and shall identify the persons or entities providing and assisting in the provision of care and supervision.

This bill, notwithstanding that provision, would provide that if the department has reason to believe that a resident of a specified facility has an unmet need for care and supervision in the form of mental health treatment services, the department shall contact a county mental health representative to obtain a clinical assessment by a licensed mental health professional regarding whether, in the opinion of the licensed professional, the resident's need for mental health treatment services is unmet. The imposition of this new duty on counties would create a state-mandated local program.

The bill would permit the department to require the facility to become licensed or require a resident to move to a licensed facility only if the licensed professional determines that the resident's need for mental health treatment services is unmet, and would specify that mental health treatment services not include mental health support services, as defined. It would also permit individuals with mental illness, or their representatives, to contract for the provision of any or all of these mental health support services in the individual's private home as part of a mental health treatment plan to support independent living.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that there is an urgent need to provide for a statewide structure that fosters support services for persons with mental illness. These services should be provided to clients in the least restrictive setting possible, such as a person's private home, and should enable the person to live more independently in the community for long periods of time. These services should include clinical assessment, treatment, and service planning directed toward helping the individual achieve his or her objectives, optimize independence and productivity, and reintegrate into the community successfully.

SEC. 2. Section 1568.03 of the Health and Safety Code is amended to read:

1568.03. (a) No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential care facility in this state without first obtaining and maintaining a valid license therefor, as provided in this chapter.

(b) A facility may accept or retain residents requiring varying levels of care. However, a facility shall not accept or retain residents who require a higher level of care than the facility is authorized to provide. Persons who require 24-hour skilled nursing intervention shall not be appropriate for a residential care facility.

(c) This chapter shall not apply to the following:

(1) Any health facility, as defined in Section 1250.

(2) Any clinic, as defined in Section 1200.

(3) Any arrangement for the receiving and care of persons with chronic, life-threatening illness by a relative, guardian or conservator, significant other, or close friend; or any arrangement for the receiving and care of persons with chronic, life-threatening illness from only one family as respite for the relative, guardian or conservator, significant other, or close friend, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department.

(4) (A) ~~Any~~ Except as provided in Section 5677 of the Welfare and Institutions Code, any house, institution, hotel, foster home, shared housing project, or other similar facility that is limited to providing any of the following: housing, meals, transportation,

1 housekeeping, recreational and social activities, the enforcement
2 of house rules, counseling on activities of daily living, and service
3 referrals, as long as both of the following conditions are met:

4 (i) After any referral, all residents thereof independently obtain
5 care and supervision and medical services without the assistance
6 of the facility or of any person or entity with an organizational or
7 financial connection with that facility.

8 (ii) No resident thereof has an unmet need for care and
9 supervision or protective supervision. A memorandum of
10 understanding between the facility and any service agency to
11 which it refers residents does not necessarily itself constitute an
12 agreement for care and supervision of the resident.

13 (B) In determining the applicability of this paragraph, the
14 department shall determine the residents' need for care and
15 supervision, if any, and shall identify the persons or entities
16 providing or assisting in the provision of care and supervision.
17 This paragraph shall apply only if the department determines that
18 the care and supervision needs of all residents are being
19 independently met.

20 (5) Any housing for elderly or disabled persons, or both, that
21 is approved and operated pursuant to Section 202 of Public Law
22 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law
23 101-625 (42 U.S.C.A. Sec. 8013), or whose mortgage is insured
24 pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec.
25 1715z), or that receives mortgage assistance pursuant to Section
26 221d (3) of Public Law 87-70 (12 U.S.C.A. Sec. 17151), where
27 supportive services are made available to residents at their option,
28 as long as the project owner or operator does not contract for or
29 provide the supportive services. The project owner or operator
30 may coordinate, or help residents gain access to, the supportive
31 services, either directly, or through a service coordinator.

32 (6) Any similar facility determined by the director.

33 (d) A holder of a residential care facility license may hold or
34 obtain an additional license or a child day care facility license, as
35 long as the services required by each license are provided at
36 separate locations or distinctly separate sections of the building.

37 (e) The director may bring an action to enjoin the violation or
38 threatened violation of this section in the superior court in and for
39 the county in which the violation occurred or is about to occur. Any
40 proceeding under this section shall conform to the requirements of

Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. The court shall, if it finds the allegations to be true, issue its order enjoining continuance of the violation.

SEC. 3. Section 5677 is added to the Welfare and Institutions Code, to read:

5677. (a) Notwithstanding Section 1568.03 of the Health and Safety Code, a licensee may provide mental health support services to residents of the licensed facility if the county has approved a contract with the licensee to provide mental health services pursuant to the county's performance contract with the state.

(b) (1) Notwithstanding Section 1568.03 of the Health and Safety Code, if the State Department of Social Services has reason to believe that a resident of a facility, described in subparagraph (A) of paragraph (4) of subdivision (c) of Section 1568.03 of the Health and Safety Code, has an unmet need for care and supervision in the form of mental health treatment services, the department shall contact a county mental health representative to obtain a clinical assessment by a licensed mental health professional regarding whether, in the opinion of the licensed professional, the resident's need for mental health treatment services is unmet. The department may require the facility to become licensed or require a resident to move to a licensed facility only if the licensed professional determines that the resident's need for mental health treatment services is unmet.

(2) For purposes of this subdivision, "care and supervision" shall not include mental health support services.

(c) For purposes of this section, "mental health support services" include, but are not limited to, assistance with meal planning and shopping, budgeting and money management skills, assistance with medication compliance, transportation, vocational and educational development, counseling regarding appropriate use of community resources and leisure activities, assistance with arrangements to meet the individual's basic needs such as financial benefits, food, clothing, household goods, housing, and medical, dental, and vision benefits and care, and assistance and support with independent living skills training and problem solving.

1 (d) Notwithstanding any other provision of law, individuals
2 with mental illness, or their representatives, may contract for the
3 provision of any or all of the mental health support services
4 specified in subdivision (c), in the individual's private home as
5 part of a mental health treatment plan to support independent
6 living.

7 SEC. 4. Notwithstanding Section 17610 of the Government
8 Code, if the Commission on State Mandates determines that this
9 act contains costs mandated by the state, reimbursement to local
10 agencies and school districts for those costs shall be made pursuant
11 to Part 7 (commencing with Section 17500) of Division 4 of Title
12 2 of the Government Code. If the statewide cost of the claim for
13 reimbursement does not exceed one million dollars (\$1,000,000),
14 reimbursement shall be made from the State Mandates Claims
15 Fund.

